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**BEFORE THE
PHYSICAL THERAPY BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against: Case No. 1D 2000 62664

**CECILY ANN BROWNE
AKA CECILY ANN HARD**

A C C U S A T I O N

3517 S. Lincoln Ct.
Visalia, CA 93277

License No. AT 2833,

Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell (AComplainant@) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California (ABoard@).

2. On or about September 3, 1992, the Board issued License Number AT 2833 to CECILY ANN BROWNE AKA CECILY ANNE HARD (ARespondent@). The License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2002, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following sections of the Business and Professions Code (ACode@).

A. Section 2609 of the Code provides that the board shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in this chapter.

B. Section 2660 of the Code provides that the Board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon, or issue subject to terms and conditions any license, certificate, or approval issued under this chapter for any of the following causes:



....

(j) The aiding or abetting of any person to violate this chapter or any regulations duly adopted under this chapter.

4. California Code of Regulations section 1398.44 provides: AA licensed physical therapist shall at all times be responsible for all physical therapy services provided by the physical therapist assistant. The supervising physical therapist has continuing responsibility to follow progress of each patient, provide direct care to the patient and to assure that the physical therapist assistant does not function autonomously. Adequate supervision shall include all of the following:



(a) The supervising physical therapist shall be readily available in person or by telecommunication to the physical therapist assistant at all times while the physical therapist assistant is treating patients. The supervising physical therapist shall provide periodic on site supervision and observation of the assigned patient care rendered by the physical therapist assistant.

(b) The supervising physical therapist shall initially evaluate each

1 patient and document in the patient record, along with his or her signature, the evaluation and
2 when the patient is to be reevaluated.

3 (c) The supervising physical therapist shall formulate and document in
4 each patient's record, along with his or her signature, the treatment program goals and plan based
5 upon the evaluation and other information available to the supervising physical therapist. This
6 information shall be communicated verbally, or in writing by the supervising physical therapist
7 to the physical therapist assistant prior to initiation of treatment by the physical therapist
8 assistant. The supervising physical therapist shall determine which elements of the treatment
9 plan may be assigned to the physical therapist assistant. Assignment of these responsibilities
10 must be commensurate with the qualifications, including experience, education and training, of
11 the physical therapist assistant.

12 (d) The supervising physical therapist shall reevaluate the patient as
13 previously determined, or more often if necessary, and modify the treatment, goals and plan as
14 needed. The reevaluation shall include treatment to the patient by the supervising physical
15 therapist. The reevaluation shall be documented and signed by the supervising physical therapist
16 in the patient's record and shall reflect the patient's progress toward the treatment goals and
17 when the next reevaluation shall be performed.

18 (e) The physical therapist assistant shall document each treatment in
19 the patient record, along with his or her signature. The physical therapist assistant shall
20 document in the patient record and notify the supervising physical therapist of any change in the
21 patient's condition not consistent with planned progress or treatment goals. The change in
22 condition necessitates a reevaluation by a supervising physical therapist before further treatment
23 by the physical therapist assistant.

24 (f) Within seven (7) days of the care being provided by the physical
25 therapist assistant, the supervising physical therapist shall review, cosign and date all
26 documentation by the physical therapist assistant or conduct a weekly case conference and

document it in the patient record. Cosigning by the supervising physical therapist indicates that the supervising physical therapist has read the documentation, and unless the supervising physical therapist indicates otherwise, he or she is in agreement with the contents of the documentation.

(g) There shall be a regularly scheduled and documented case conference between the supervising physical therapist and physical therapist assistant regarding the patient. The frequency of the conferences is to be determined by the supervising physical therapist based on the needs of the patient, the supervisory needs of the physical therapist assistant and shall be at least every thirty calendar days.

(h) The supervising physical therapist shall establish a discharge plan. At the time of discharge, or within 7 (seven) days thereafter, a supervising physical therapist shall document in the patient's record, along with his or her signature, the patient's response to treatment in the form of a reevaluation or discharge summary.

RECOVERY OF COSTS

5. Section 125.3 of the Code provides, in part, that the Division may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.



6. Section 2661.5 of the Code provides, in part, that the Board may request the administrative law judge to direct any licensee found to have committed a violation or violations of the licensing act to pay the Board a sum not to exceed the reasonable costs of the investigation and prosecution of the case.



7. Respondent is guilty of aiding and abetting in the unlawful practice of physical therapy in violation of Code sections 2660(j), as more particularly set forth hereinbelow.

FIRST CAUSE FOR DISCIPLINE

(Aiding and Abetting in Unlawful Practice)

[Bus. & Prof. Code ' 2660(j); Cal. Code of Reg. ' 1398.44]

1 8. During the months of December 1997 and January and February 1998,
2 and at other times, respondent was employed at the ASequoia Rehab and Sports Medicine
3 Clinic@ located at Visalia, California, and was supervised by Donald Lee Zimmerman, a licensed
4 physical therapist. During the time period noted above, a review of patient records revealed the
5 following:

6 A. A review of the patient records of C.A. (#11694), A.B. (#11666),
7 B.B. (#11615), A.C. (#11654), F.C. (#11676), and C.C. (#11688), reveals respondent conducted
8 initial patient evaluations without involvement of the physical therapist in violation of California
9
10 Code of Regulations section 1398(44(b)).¹

11 B. A review of the patient records of C.A. (#11694), A.B. (#11666),
12 B.B. (#11615), A.C. (#11654), F.C. (#11676), and C.C. (#11688), reveals respondent conducted
13 the formulation and documentation of treatment program goals and plans for these patients
14 without involvement of the physical therapist in violation of California Code of Regulations
15 section 1398.44(c).

16 C. A review of the patient records of C.A. (#11694), A.B. (#11666),
17 B.B. (#11615), R.B. (#11645), A.B. (#11705), J.C. (#11667), F.C. (#11676), and C.C. (#11688),
18 reveals that respondent conducted reevaluations of these patients without involvement of the
19 physical therapist in violation of California Code of Regulations section 1398.44(d).

20 D. A review of the patient records of G.A. (#11711), A.B. (#11666),
21 R.B. (#11645), B.B. (#11615), A.B. (#11705), A.C. (#11645), F.C. (#11676), and C.C. (#11688),
22 reveals that respondent failed to indicate in the patient records the first date of service in
23 violation of California Code of Regulations section 1398.44(e).

24 E. A review of the patient records of G.A. (#11711), A.C. (#11694),
25

26 1. The full names of all patients referred to herein will be made available to respondent
27 upon a timely request for discovery.

1 A.B. (#11666), R.B. (#11645), B.B. (#11615), A.B. (#11705), A.C. (#11654), J.C. (#11667),
2 F.C. (#11676), and C.C. (#11688), reveals that respondent failed to conduct case conferences
3 reflecting the physical therapist's oversight and review within seven (7) days of care provided by
4 respondent in violation of California Code of Regulations section 1398.44(f).

5 F. A review of the patient records of B.B. (#11615), A.B. (#11705),
6 J.C. (#11667), and C.C. (#11688), reveals that respondent failed to conduct regular case
7 conferences with the physical therapist at least every thirty (30) days in violation of California
8 Code of Regulations section 1398.44(g).

9 G. A review of the patient records of C.A. (#11694), A.B. (#11666),
10 R.B. (#11645), B.B. (#11615), A.B. (#11705), J.C. (#11667), A.C. (#11654), F.C. (#11676), and
11 C.C. (#11688), reveals that respondent failed to involve the physical therapist in establishing and
12 documenting a discharge plan and summary in violation of California Code of Regulations
13 section 1398.44(h).

14 H. A review of the patient records of G.A. (#11711), C.A. (#11694),
15 A.B. (#11666), R.B. (#11645), B.B. (#11615), A.B. (#11705), A.C. (#11654), J.C. (#11667),
16 F.C. (#11676), and C.C. (#11688), reveals that respondent failed to obtain the physical
17 therapist's oversight, direction and delegation of patient services to be conducted by respondent
18 in violation of California Code of Regulations section 1398.44.

19 9. Respondent's conduct as set forth in paragraph 8, above, constitutes a
20 violation of Code section 2660(j) in that respondent aided and abetted in the violation of
21 California Code of Regulations, sections 1398.44(b), (c), (d), (e), (f), and (h).

22 **PRAYER**

23 WHEREFORE, Complainant requests that a hearing be held on the matters herein
24 alleged, and that following the hearing, the Physical Therapy Board issue a decision:

25 1. Revoking or suspending License Number AT 2833, issued to Cecily Ann
26 Browne.

1 2. Ordering Cecily Ann Brown, AT, to pay the Physical Therapy Board the
2 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 2661.5.

4 3. Taking such other and further action as deemed necessary and proper.

5 DATED: May 18, 2001.

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Original Signed By

STEVEN K. HARTZELL
Executive Officer
Physical Therapy Board of California
Department of Consumer Affairs
State of California
Complainant